

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1489

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRITT, MERIDETH, HOSMER, BARNITZ, CROWELL,
MAYER AND RICHARDSON (Co-sponsors).

Read 1st time January 16, 2002, and 1000 copies ordered printed.

Read 2nd time January 17, 2002, and referred to the Committee on Criminal Law, January 31, 2002.

Reported from the Committee on Criminal Law March 14, 2002, with recommendation that the bill Do Pass.

Taken up for Perfection April 8, 2002. Bill ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

3699L.01P

AN ACT

To repeal sections 50.550, 143.782, 558.019 and 559.021, RSMo, and to enact in lieu thereof
seven new sections relating to county crime reduction funds, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 50.550, 143.782, 558.019 and 559.021, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 50.550, 50.555, 143.782,
3 488.5021, 558.019, 559.021 and 1, to read as follows:

50.550. **1.** The annual budget shall present a complete financial plan for the ensuing
2 budget year. It shall set forth all proposed expenditures for the administration, operation and
3 maintenance of all offices, departments, commissions, courts and institutions; the actual or
4 estimated operating deficits or surpluses from prior years; all interest and debt redemption
5 charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the
6 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs
7 of holding circuit court in the county that are chargeable against the county, for the repair and
8 upkeep of bridges other than on state highways and not in any special road district, and for the
9 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the anticipated income and other means
11

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended
to be omitted in the law.**

12 of financing the proposed expenditures.

13 **4.** All receipts of the county for operation and maintenance shall be credited to the
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and
16 expenditures for roads and bridges may be charged to the special fund.

17 **5.** All receipts from the sale of bonds for any purpose shall be credited to the bond fund
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23 **6.** Subject to the provisions of section 50.555 the county commission may create a
24 fund to be know as "The County Crime Reduction Fund".

25 **7.** The county commission may create other funds as are necessary from time to time.

50.555. 1. A county commission may establish by ordinance or order a fund whose
2 proceeds may be expended only for the purposes provided for in subsection 3 of this
3 section. The fund shall be designated as a county crime reduction fund and shall be under
4 the supervision of a board of trustees consisting of one citizen of the county appointed by
5 the presiding commissioner of the county, one citizen of the county appointed by the sheriff
6 of the county, and one citizen of the county appointed by the county prosecuting attorney.

7 **2.** Money from the county crime reduction fund shall only be expended upon the
8 approval of a majority of the members of the county crime reduction fund's board of
9 trustees and only for the purposes provided for by subsection 3 of this section.

10 **3.** Money from the county crime reduction fund shall only be expended for the
11 following purposes:

12 **(1)** Narcotics investigation, prevention, and intervention;

13 **(2)** Purchase of law enforcement related equipment and supplies for the sheriff's
14 office;

15 **(3)** Matching funds for federal or state law enforcement grants;

16 **(4)** Funding for the reporting of all state and federal crime statistics or information;
17 and

18 **(5)** Any law enforcement related expense, including those of the prosecuting
19 attorney, approved by the board of trustees for the county crime reduction fund that is
20 reasonably related to investigation, preparation, trial, and disposition of criminal cases
21 before the courts of the state of Missouri.

22 **4.** The county commission may not reduce any law enforcement agency's budget

23 as a result of funds the law enforcement agency receives from the county crime reduction
24 fund. The crime reduction fund is to be used only as a supplement to the law enforcement
25 agency's funding received from other county, state, or federal funds.

26 **5. County crime reduction funds shall be audited as are all other county funds.**

143.782. As used in sections 143.782 to 143.788, unless the context clearly requires
2 otherwise, the following terms shall mean and include:

3 (1) "Debt", any sum due and legally owed to any state agency which has accrued through
4 contract, subrogation, tort, or operation of law regardless of whether there is an outstanding
5 judgment for that sum, **court costs as defined in section 488.010, fines and fees owed to a**
6 **court,** or any support obligation which is being enforced by the division of family services on
7 behalf of a person who is receiving support enforcement services pursuant to section 454.425,
8 RSMo;

9 (2) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal
10 entity owing a debt;

11 (3) "Department", the department of revenue of the state of Missouri;

12 (4) "Refund", the Missouri income tax refund which the department determines to be due
13 any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include
14 any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo;[and,]

15 (5) "State agency", any department, division, board, commission, office, or other agency
16 of the state of Missouri, including public community college district; **and,**

17 (6) "Court", the Supreme Court, court of appeals, or any circuit court of the state.

488.5021. 1. In addition to any other assessment authorized by law, a court may
2 **assess a fee of twenty dollars on each person who pays a court ordered penalty, fine or**
3 **sanction on a time payment basis, including parking penalties, restitution and juvenile**
4 **monetary assessments. A time payment basis shall be any penalty, fine or sanction not**
5 **paid, in full, within thirty days of the date the court imposed the fine, penalty or sanction.**
6 **Imposition of the time payment fee shall be in addition to any other enforcement provisions**
7 **authorized by law.**

8 **2. Eight dollars of the time payment fee collected pursuant to this section shall be**
9 **payable to the clerk of the court of the county from which such fee was collected, or to such**
10 **person as is designated by local circuit court rule as treasurer of said fund, and said fund**
11 **shall be applied and expended under the direction and order of the court en banc of any**
12 **such county to be utilized by the court to improve, maintain and enhance the ability to**
13 **collect and manage moneys assessed or received by the courts, to improve case processing,**
14 **enhance court security or to improve the administration of justice. Seven dollars of the**
15 **time payment fee shall be deposited in the statewide court automation fund pursuant to**

16 **section 476.055, RSMo. Five dollars of the time payment fee shall be deposited in the drug**
17 **court resources fund pursuant to section 478.009, RSMo.**

2 558.019. 1. This section shall not be construed to affect the powers of the governor
3 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those
4 provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set
5 minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

6 2. The provisions of this section shall be applicable to all classes of felonies except those
7 set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section.
8 For the purposes of this section, "prison commitment" means and is the receipt by the department
9 of corrections of a defendant after sentencing. For purposes of this section, prior prison
10 commitments to the department of corrections shall not include commitment to a regimented
11 discipline program established pursuant to section 217.378, RSMo. Other provisions of the law
12 to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found
13 guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is
14 committed to the department of corrections shall be required to serve the following minimum
15 prison terms:

16 (1) If the defendant has one previous prison commitment to the department of
17 corrections for a felony offense, the minimum prison term which the defendant must serve shall
18 be forty percent of his sentence or until the defendant attains seventy years of age, and has served
19 at least forty percent of the sentence imposed, whichever occurs first;

20 (2) If the defendant has two previous prison commitments to the department of
21 corrections for felonies unrelated to the present offense, the minimum prison term which the
22 defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy
23 years of age, and has served at least forty percent of the sentence imposed, whichever occurs
24 first;

25 (3) If the defendant has three or more previous prison commitments to the department
26 of corrections for felonies unrelated to the present offense, the minimum prison term which the
27 defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy
28 years of age, and has served at least forty percent of the sentence imposed, whichever occurs
29 first.

30 3. Other provisions of the law to the contrary notwithstanding, any defendant who has
31 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061,
32 RSMo, and is committed to the department of corrections shall be required to serve a minimum
33 prison term of eighty-five percent of the sentence imposed by the court or until the defendant
34 attains seventy years of age, and has served at least forty percent of the sentence imposed,
35 whichever occurs first.

35 4. For the purpose of determining the minimum prison term to be served, the following
36 calculations shall apply:

37 (1) A sentence of life shall be calculated to be thirty years;

38 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
39 crimes committed at or near the same time which is over seventy-five years shall be calculated
40 to be seventy-five years.

41 5. For purposes of this section, the term "minimum prison term" shall mean time
42 required to be served by the defendant before he is eligible for parole, conditional release or other
43 early release by the department of corrections. Except that the board of probation and parole,
44 in the case of consecutive sentences imposed at the same time pursuant to a course of conduct
45 constituting a common scheme or plan, shall be authorized to convert consecutive sentences to
46 concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit
47 attorney, that the sum of the terms results in an unreasonably excessive total term, taking into
48 consideration all factors related to the crime or crimes committed and the sentences received by
49 others similarly situated.

50 6. (1) A sentencing advisory commission is hereby created to consist of eleven members.
51 One member shall be appointed by the speaker of the house. One member shall be appointed
52 by the president pro tem of the senate. One member shall be the director of the department of
53 corrections. Six members shall be appointed by and serve at the pleasure of the governor from
54 among the following: the public defender commission; private citizens; a private member of the
55 Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be
56 appointed by the supreme court, one from a metropolitan area and one from a rural area. All
57 members of the sentencing commission appointed prior to August 28, 1994, shall continue to
58 serve on the sentencing advisory commission at the pleasure of the governor.

59 (2) The commission shall study sentencing practices in the circuit courts throughout the
60 state for the purpose of determining whether and to what extent disparities exist among the
61 various circuit courts with respect to the length of sentences imposed and the use of probation
62 for defendants convicted of the same or similar crimes and with similar criminal histories. The
63 commission shall also study and examine whether and to what extent sentencing disparity among
64 economic and social classes exists in relation to the sentence of death and if so, the reasons
65 therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties
66 relevant to the research and investigation of disparities in death penalty sentencing among
67 economic and social classes.

68 (3) The commission shall establish a system of recommended sentences, within the
69 statutory minimum and maximum sentences provided by law for each felony committed under
70 the laws of this state. This system of recommended sentences shall be distributed to all

71 sentencing courts within the state of Missouri. The recommended sentence for each crime shall
72 take into account, but not be limited to, the following factors:

73 (a) The nature and severity of each offense;

74 (b) The record of prior offenses by the offender;

75 (c) The data gathered by the commission showing the duration and nature of sentences
76 imposed for each crime; and

77 (d) The resources of the department of corrections and other authorities to carry out the
78 punishments that are imposed.

79 (4) The commission shall publish and distribute its system of recommended sentences
80 on or before July 1, 1995. The commission shall study the implementation and use of the system
81 of recommended sentences until July 1, 1998, and return a final report to the governor, the
82 speaker of the house of representatives, and the president pro tem of the senate. Following the
83 July 1, 1998, report, the commission may revise the recommended sentences every three years.

84 (5) The governor shall select a chairperson who shall call meetings of the commission
85 as required or permitted pursuant to the purpose of the sentencing commission.

86 (6) The members of the commission shall not receive compensation for their duties on
87 the commission, but shall be reimbursed for actual and necessary expenses incurred in the
88 performance of these duties and for which they are not reimbursed by reason of their other paid
89 positions.

90 (7) The circuit and associate circuit courts of this state, the office of the state courts
91 administrator, the department of public safety, and the department of corrections shall cooperate
92 with the commission by providing information or access to information needed by the
93 commission. The office of the state courts administrator will provide needed staffing resources.

94 **7. If the imposition or execution of a sentence is suspended, the court may consider**
95 **ordering restorative justice methods pursuant to section 217.777, RSMo, including any or**
96 **all of the following, or any other method that the court finds just or appropriate:**

97 **(1) Restitution to any victim for costs incurred as a result of the offender's actions;**

98 **(2) Offender treatment programs;**

99 **(3) Mandatory community services;**

100 **(4) Work release programs in local facilities; and**

101 **(5) Community-based residential and nonresidential programs.**

102 **8. If the imposition or execution of a sentence is suspended for a misdemeanor, in**
103 **addition to the provisions of subsection 7 of this section, the court may order the**
104 **assessment and payment of a designated amount of money to a county crime reduction**
105 **fund established by the county commission pursuant to section 50.555, RSMo. Such**
106 **contribution shall not exceed one thousand dollars for any charged offense. Any money**

107 **deposited into the county crime reduction fund pursuant to this section shall only be**
108 **expended pursuant to the provisions of section 50.555, RSMo. County crime reduction**
109 **funds shall be audited as are all other county funds.**

110 [7.] 9. The provisions of this section shall apply only to offenses occurring on or after
111 August 28, 1994.

559.021. 1. The conditions of probation shall be such as the court in its discretion deems
2 reasonably necessary to ensure that the defendant will not again violate the law. When a
3 defendant is placed on probation he shall be given a certificate explicitly stating the conditions
4 on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation, the court
6 may order such conditions as the court believes will serve to compensate the victim, any
7 dependent of the victim, or society. Such conditions may include, but shall not be limited to:

8 (1) Restitution to the victim or any dependent of the victim, in an amount to be
9 determined by the judge; and

10 (2) The performance of a designated amount of free work for a public or charitable
11 purpose, or purposes, as determined by the judge.

12 **3. In addition to such other authority as exists to order conditions of probation, in**
13 **the case of a plea of guilty or a finding of guilt, the court may order the assessment and**
14 **payment of a designated amount of money to a county crime reduction fund established**
15 **by the county commission pursuant to section 50.555, RSMo. Such contribution shall not**
16 **exceed one thousand dollars for any charged offense. Any money deposited into the county**
17 **crime reduction fund pursuant to this section shall only be expended pursuant to the**
18 **provisions of section 50.555, RSMo. County crime reduction funds shall be audited as are**
19 **all other county funds.**

20 [3.] 4. The defendant may refuse probation conditioned on the performance of free work.
21 If he does so, the court shall decide the extent or duration of sentence or other disposition to be
22 imposed and render judgment accordingly. Any county, city, person, organization, or agency,
23 or employee of a county, city, organization or agency charged with the supervision of such free
24 work or who benefits from its performance shall be immune from any suit by the defendant or
25 any person deriving a cause of action from him if such cause of action arises from such
26 supervision of performance, except for an intentional tort or gross negligence. The services
27 performed by the defendant shall not be deemed employment within the meaning of the
28 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall
29 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

30 [4.] 5. The court may modify or enlarge the conditions of probation at any time prior to
31 the expiration or termination of the probation term.

32 **6. The defendant may refuse probation conditioned on a payment to a county crime**
33 **reduction fund. If he or she does so, the court shall decide the extent or duration of**
34 **sentence or other disposition to be imposed and render judgment accordingly. A judge**
35 **may order payment to a crime reduction fund only if such fund had been created prior to**
36 **sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall**
37 **not have any direct supervisory authority or administrative control over any fund to which**
38 **the judge is ordering the probationers to make payments. A defendant who fails to make**
39 **a payment or payments to a county crime reduction fund may not have his probation**
40 **revoked solely for failing to make such payment unless the judge, after evidentiary hearing,**
41 **makes a finding supported by a preponderance of the evidence that the defendant either**
42 **willfully refused to make the payment or that the defendant willfully, intentionally, and**
43 **purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.**

Section 1. 1. Upon an individual's failure to pay court costs, fines, fees or other
2 **sums ordered by a court as payable to the state, a court may report any such delinquencies**
3 **in excess of twenty-five dollars to the Office of State Courts Administrator and request that**
4 **the State Courts Administrator seek a setoff of an income tax refund.**

5 **2. The Office of State Courts Administrator shall give the department of revenue**
6 **the information necessary to identify each debtor whose refund is sought to be set off and**
7 **the amount of the debt or debts owed by each such debtor who is entitled to a refund in**
8 **excess of twenty-five dollars.**

9 **3. The department of revenue shall notify the Office of State Courts Administrator**
10 **that a refund has been set off on behalf of a court and shall certify the amount of such**
11 **setoff, which shall not exceed the amount of the claimed debt certified. When the refund**
12 **owed exceeds the claimed debt, the department of revenue shall send the excess amount to**
13 **the debtor within a reasonable time after such excess is determined.**

14 **4. The department of revenue shall notify the debtor by mail that a set off has been**
15 **sought. The notice shall contain the following:**

16 **(1) the name of the debtor;**

17 **(2) the manner in which the debt arose;**

18 **(3) the amount of the claimed debt and the department's intention to set off the**
19 **refund against the debt;**

20 **(4) the amount, if any, of the refund due after set off of the refund against the debt;**
21 **and**

22 **(5) the right of the debtor to apply in writing to the court originally requesting set**
23 **off for review of the set off because the debt was previously satisfied.**

24 **5. Any debtor applying to the court for review of the set off must file a written**

25 application within thirty days of the date of mailing of the notice and send a copy of the
26 application to the Office of State Courts Administrator. The application for review of the
27 set off shall contain the name of the debtor, the case name and number from which the
28 debt arose, and the grounds for review. The court may upon application, or on its own
29 motion, hold a hearing on the application. The hearing shall be ancillary to the original
30 action with the only matter for determination whether the refund set off was appropriate
31 because the debt was unsatisfied at the time the court reported the delinquency to the
32 Office of State Courts Administrator and that the debt remains unsatisfied.

33 6. In the case of a joint or combined return, the notice sent by the department shall
34 contain the name of the nonobligated taxpayer named in the return, if any, against whom
35 no debt is claimed. The notice shall state that as to the nonobligated taxpayer that no debt
36 is owed and that the taxpayer is entitled to a refund regardless of the debt owed by such
37 other person or persons named on the joint or combined return. The nonobligated
38 taxpayer may seek a refund as provided in RSMo 143.784.

39 7. Upon receipt of funds transferred from the department of revenue to the Office
40 of State Courts Administrator pursuant to a refund set off, the State Courts Administrator
41 shall deposit such funds in the state treasury to be held in an escrow account, which is
42 hereby established. Interest earned on those funds shall be credited to the escrow account
43 and used to offset administrative expenses. If a debtor files with a court an application for
44 review, the State Courts Administrator shall hold such sums in question until directed by
45 that court to release the funds. If no application for review is filed, the State Courts
46 Administrator shall, within forty-five days of receipt of funds from the department, send
47 to the clerk of the court in which the debt arose such sums as are collected by the
48 department of revenue for credit to the debtor's account.